

## REMARKS

Claims 1-13 were rejected on the ground of nonstatutory obviousness type double patenting as being unpatentable over claims 1-22 of U.S. Patent 7,470,355. Additionally, all the pending claims 1-23 were provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over (1) claims 1-12 of co-pending Application No. 10/575,800; and (2) claims 1-19 of co-pending U.S. application No. 10/573,434. A Notice of Express Abandonment was filed expressly abandoning Application No. 10/573,434, a copy of which is attached at Tab 1. As for the obviousness type rejection based on US Patent 7,470,355 and Application No. 10/575,800, a Terminal Disclaimer is provided.

It is believed that all the claims are in condition to be allowed. The Examiner is invited to contact the undersigned at (312) 321-4276 if such communication would expedite allowance of this application.

Respectfully submitted,

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# **TAB 1**

CERTIFICATE OF EFS FILING UNDER 37 CFR §1.8

I hereby certify that this correspondence is being electronically transmitted to the United States Patent and Trademark Office, Commissioner for Patents, via the EFS pursuant to 37 CFR §1.8 on the below date:

Date: February 24, 2010

Name: G. Peter Nichols

Signature: /G. Peter Nichols/

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Appln. of: Rigby et al.

Appln. No.: 10/573,434

Filed: April 5, 2007

For: Electrochemical Reduction of Metal Oxides

Attorney Docket No.: 14075/4

Examiner: Wilkins

Art Unit: 1795

Conf. No.: 3140

**EXPRESS ABANDONMENT UNDER 37 C.F.R. 1.138**

Mail Stop Express Abandonment

Commissioner for Patents

Alexandria, VA 22313-1450

Dear Sir:

Applicants request that the subject application be expressly abandoned as of the filing date of this paper.

Respectfully submitted,

Dated: February 24, 2010

/G. Peter Nichols/

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